

**ORDINANCE NO. 2019-15**

**AN ORDINANCE AMENDING CHAPTER 12 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HARVEY CEDARS, 1975, ENTITLED “BUILDING AND HOUSING” AS IT PERTAINS TO CERTIFICATES OF OCCUPANCY**

**WHEREAS** it is the intent of the Board of Commissioners to minimize public and private losses due to flood conditions by requiring every property owner to execute and record a Declaration of Deed Restriction upon the issuance of a certificate of occupancy issued for any purpose. The declaration shall state that any conveyance of property will continue to be in compliance with FEMA flood regulations.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF THE COMMISSIONERS OF THE BOROUGH OF HARVEY CEDARS,** as follows:

Section 1. Section 12-8.13 entitled “Certificates of Occupancy – Deed Requirement”, is hereby created and supplemented to read as follows:

12-8.13 Certificates of occupancy – Deed Requirement.

A. Prior to the issuance of a certificate of occupancy for new construction or for a certificate of occupancy upon resale or a certificate of occupancy issued for any other purpose, applications shall be accompanied by a recorded deed, recorded in the Ocean County Clerk's Office at Toms River, New Jersey, which recorded deed shall contain the following specific language:

There is hereby imposed upon the lands described in this Deed a restrictive covenant advising all future owners of the said lands whether acquired by conveyance, inheritance or otherwise that the lands may only be used in accordance with flood regulations established by the Federal Emergency Management Agency (FEMA). A violation of any of the said Federal Emergency Management Agency flood regulations may result in:

1. An issuance of a summons returnable in the Municipal Court of the Borough of Harvey Cedars, or any other appropriate Court having jurisdiction, providing for a fine of not less than \$100 nor more than \$1,000 per day, or such greater or lesser fines as may be permitted by law for each and every day that any violation of the said Federal Emergency Management Agency flood protection regulations are violated; or
2. Subject the owner of the lands to an action in the Chancery Division, Superior Court of New Jersey or any other court having injunctive jurisdiction for a mandatory injunction compelling the owner to remove any violations of the said Federal Emergency Management Agency regulations.

By acceptance of title to the lands encumbered hereby, any owner thereof whether title be acquired by Deed of conveyance, inheritance or otherwise, grants to the appropriate inspection officers of the Borough of Harvey Cedars the right upon 48 hours advance notice to inspect the areas of any structure located on the lands which area lies below the base flood elevation (BFE) as defined by Federal Emergency Management regulations in order to determine compliance with such regulations and for a failure to permit such inspection, the owner of the lands may be subject to Complaint returnable in the Municipal Court of the Borough of Harvey Cedars and may be subject to a fine of not less than \$100 per day nor more than \$1,000 per day, or any such greater or lesser amounts as may be permitted by law for each and every day which inspection is refused.

B. A copy of this section of the Code of the Borough of Harvey Cedars shall be provided to any applicant requiring a certificate of occupancy for any purpose in order that the appropriate deed may be prepared and recorded in a timely manner so that a recorded copy may be provided to the Borough prior to the issuance of any requested certificate of occupancy.

C. Any deed required by this section shall, in addition to containing the above-recited language, provide a description by metes and bounds and lot and block of the lands encumbered by the restrictive covenant above called for.

D. This ordinance shall take effect January 1, 2020.

Section 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

Section 4. This Ordinance shall take effect upon final adoption after publication in accordance with law.

ADOPTED ON: November 19, 2019